

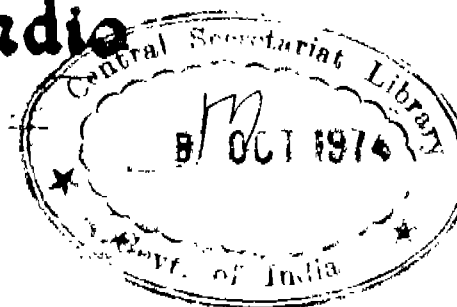
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असाधारण
EXTRAORDINARY

भाग II—खण्ड 2
PART II—Section 2

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation

RAJYA SABHA

The following Bill was introduced in the Rajya Sabha on the 12th August, 1974:—

Bill No. XXXIII of 1974

A Bill further to amend the Prevention of Food Adulteration Act, 1954.

Be it enacted by Parliament in the Twenty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Prevention of Food Adulteration (Amendment) Act, 1974.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

37 of 1954.

2. In section 2 of the Prevention of Food Adulteration Act, 1954 (hereinafter referred to as the principal Act),—

(a) in clause (i),—

(i) in sub-clause (f), the word “disgusting,” shall be omitted;

(ii) for sub-clause (j), the following sub-clause shall be substituted, namely:—

“(j) if any colouring matter other than that prescribed in respect thereof is present in the article, or if the amounts of the prescribed colouring matter which is present in the article are not within the prescribed limits of variability;”

(iii) in sub-clause (l), for the words “which are in excess of the prescribed limits of variability”, the words “not within the prescribed limits of variability” shall be substituted;

Short
title and
commen-
cement.

Amend-
ment of
section 2.

(b) for clause (v), the following clause shall be substituted, namely:—

“(v) “food” means any article used as food or drink for human consumption other than drugs and water and includes—

(a) any article which ordinarily enters into, or is used in the composition or preparation of, human food,

(b) any flavouring matter or condiments, and

(c) any other article which the Central Government may, having regard to its character, use or composition, declare, by notification in the Official Gazette, as food for the purposes of this Act;”;

(c) for clause (vi), the following clause shall be substituted, namely:—

“(vi) “Food (Health) Authority” means the Director of Medical and Health Services or the Chief Officer in charge of Health administration in a State by whatever designation he is known and includes any officer empowered by the Central Government or the State Government by notification in the Official Gazette to exercise the powers and perform the duties of the Food (Health) Authority under this Act with respect to such local area as may be specified in the notification;”;

(d) after clause (viii), the following clause shall be inserted, namely:—

“(viii a) “Local (Health) Authority”, in relation to a local area, means the Health Officer of such area or, where there is no Health Officer, the officer appointed by the Central Government or the State Government, by notification in the Official Gazette, to be in charge of Health administration in such area with such designation as may be specified therein;”;

(e) after clause (xii), the following clauses shall be inserted, namely:—

“(xii a) “primary food” means any article of food, being a produce of agriculture in its natural form, such as, cereals, millets, whole spices, whole pulses and edible oilseeds and includes rice, split spices and split pulses (whether husked or dehusked);

(xii b) “processed food” means any article of food other than an article of primary food;”.

Amend-
ment of
section

3. In section 3 of the principal Act,—

(a) in sub-section (2), for clause (g), the following clauses shall be substituted, namely:—

“(g) one representative each, nominated by the Central Government, to represent the agricultural, commercial and industrial interests;

(gg) two representatives nominated by the Central Government to represent the consumers' interests;”;

(b) in sub-section (3), for the brackets and letter “(g)”, the brackets and letters “(g), (gg),” shall be substituted.

4. After section 3 of the principal Act, the following section shall be inserted, namely:—

Insertion
of new
section
3A.

"3A. (1) The Central Government shall appoint a Secretary to the Committee who shall, under the control and direction of the Committee, exercise such powers and perform such duties as may be prescribed or as may be delegated to him by the Committee.

Appoint-
ment of
Secre-
tary and
other
staff.

(2) The Central Government shall provide the Committee with such clerical and other staff as that Government considers necessary."

5. In section 4 of the principal Act,—

Amend-
ment of
section
4.

(a) in sub-section (1), for clause (a), the following clause shall be substituted, namely:—

"(a) establish one or more Central Food Laboratory or Laboratories; or";

(b) in sub-section (2),—

(i) in the opening portion, the words "after consultation with the Committee," shall be omitted;

(ii) for clause (a), the following clause shall be substituted, namely:—

"(a) the functions of a Central Food Laboratory and the local area or areas within which such functions may be carried out;"

6. In section 7 of the principal Act,—

Amend-
ment of
section
7.

(a) in clause (iv), for the words and brackets "which is for the time being prohibited by the Food (Health) Authority", the words and brackets "which is for the time being prohibited by the Food (Health) Authority, with the previous approval of the Committee," shall be substituted;

(b) the following *Explanation* shall be inserted at the end namely:—

"*Explanation.*—For the purposes of this section, a person shall be deemed to store any adulterated food or misbranded food or any article of food referred to in clause (iii) or clause (iv) or clause (v) if he stores such food for the manufacture therefrom of any article of food for sale."

7. In section 8 of the principal Act, after the proviso, the following proviso shall be inserted, namely:—

Amend-
ment of
section
8.

"Provided further that different public analysts may be appointed for different articles of food."

8. In section 10 of the principal Act,—

Amend-
ment of
section
10.

(a) in sub-section (1), for clause (c), the following clause shall be substituted, namely:—

"(c) with the previous approval of the Local (Health) Authority having jurisdiction in the local area concerned, or with the previous approval of the Food (Health) Authority, to prohibit the sale of any article of food which is unfit for human consumption, in the interest of public health;"

(b) for sub-section (2) the following sub-section shall be substituted, namely:—

"(2) Any food inspector may enter and inspect any place where any article of food is manufactured, or stored for sale, or stored for the manufacture of any other article of food for sale, or exposed or exhibited for sale and take samples of such article of food for analysis.";

(c) after sub-section (4), the following sub-section shall be inserted, namely:—

"(4A) Where any article of food seized under sub-section (4) is of a perishable nature and the Local (Health) Authority is satisfied that such article of food is so deteriorated that it is unfit for human consumption, the said Authority may, after giving notice in writing to the vendor, cause the same to be destroyed."

(d) in sub-section (5),—

(i) for the first proviso, the following proviso shall be substituted, namely:—

"Provided that the power to break open the package or door shall be exercised only after the owner or any other person in charge of the package or, as the case may be, in occupation of the premises, if he is present therein, refuses to open the package or door on being called upon to do so, and in either case after recording the reasons for doing so:";

(ii) in the second proviso, for the words and figures "Code of Criminal Procedure, 1898", the words and figures "Code of Criminal Procedure, 1973" shall be substituted;

3 of 1898.
2 of 1973.

(e) in sub-section (6),—

(i) for the words "manufacturer of", the words "manufacturer or distributor of, or dealer in," shall be substituted;

(ii) for the words "may be seized by the food inspector", the words "and any books of account or other documents found in his possession or control and which will be useful for, or relevant to, any investigation or proceeding under this Act, may be seized by the food inspector" shall be substituted;

(iii) the words "if necessary" shall be omitted;

(f) after sub-section (7), the following sub-sections shall be inserted, namely:—

"(7A) Where any books of account or other documents are seized under sub-section (6), the food inspector shall return the same to the person from whom they were seized after copies thereof or extracts therefrom as certified by that person in such manner as may be prescribed have been taken.

(7B) When—

(i) any article intended for food is seized under sub-section (4) in the reasonable belief that it is adulterated or misbranded; or

(ii) any material referred to in sub-section (6) is seized under that sub-section,

the burden of proving that such article is not adulterated or misbranded or, as the case may be, such material is not of a kind which may be employed for purposes of adulteration shall be on the person from whose possession such article or material was seized.”;

§ of 1888.

2 of 1973.

(g) in sub-section (8), for the words and figures “under section 57 of the Code of Criminal Procedure, 1898”, the words and figures “under section 42 of the Code of Criminal Procedure, 1973” shall be substituted.

9. In section 11 of the principal Act,—

Amend-
ment
of sec-
tion 11.

(a) in sub-section (1),—

(i) in clause (b), for the words “three parts”, the words “four parts” shall be substituted;

(ii) in clause (c), for sub-clauses (ii) and (iii), the following sub-clauses shall be substituted, namely:—

“(ii) send the second part for analysis to the public analyst;

(iii) send the third part to the person, if any, whose name, address and other particulars have been disclosed under section 14A; and

(iv) retain the fourth part for production in case any legal proceedings are taken or for analysis by the Director of the Central Food Laboratory under sub-section (2) of section 13, as the case may be.”;

(b) in sub-section (3), for the words “the food inspector shall send a sample of it”, the words “the food inspector shall, without any unreasonable delay, send a sample of it” shall be substituted;

(c) in sub-section (4), for the opening paragraph, the following paragraph shall be substituted, namely:—

“An article of food seized under sub-section (4) of section 10, unless destroyed under sub-section (4A) of that section, and any material seized under sub-section (6) of that section shall be produced before a magistrate as soon as possible.”;

(d) for sub-section (5), the following sub-section shall be substituted, namely:—

“(5) If it appears to the magistrate on taking such evidence as he may deem necessary—

(a) that the article of food produced before him under sub-section (4) is adulterated or misbranded, he may order it—

(i) to be forfeited to the State Government; or

(ii) to be destroyed at the cost of the owner or the person from whom it was seized so as to prevent its being used as human food; or

(iii) to be so disposed of as to prevent its being again exposed for sale or used for food under its deceptive name; or

(iv) to be returned to the owner, on his executing a bond with or without sureties, for being sold under its appropriate name or, where the magistrate is satisfied

that the article of food is capable of being made to conform to prescribed standards for human consumption after reprocessing, for being sold after reprocessing under the supervision of such officer as may be specified in the order;

(b) that the material seized under sub-section (6) of section 10 and produced before him is apparently of a kind which may be employed for purposes of adulteration and for the possession of which the manufacturer, distributor or dealer, as the case may be, is unable to account satisfactorily, he may order it to be forfeited to the State Government."

Amendment of section 13.

10. In section 13 of the principal Act, in sub-section (2),—

(i) for the words "make an application to the court", the words "make an application to the court within a period of fourteen days from the date of receipt of the summons from the court" shall be substituted;

(ii) for the word, brackets and figures "sub-clause (iii)", the word, brackets and figures "sub-clause (iv)" shall be substituted.

Amendment of section 14.

11. In section 14 of the principal Act, in the *Explanation*, for the words, figures and letter "and in section 20A", the words, figures and letters, "in section 20A and in section 22A" shall be substituted.

Amendment of section 16.

12. In section 16 of the principal Act,—

(a) in sub-section (1),—

(i) for the words "If any person", the words, brackets, figure and letter "Subject to the provisions of sub-section (1A), if any person" shall be substituted;

(ii) in sub-clause (i) of clause (a), for the words and brackets "or the sale of which is prohibited by the Food (Health) Authority in the interest of public health", the words and brackets "or the sale of which is prohibited under any provision of this Act or any rule made thereunder or by an order of the Food (Health) Authority" shall be substituted;

(iii) in the proviso, for clause (i), the following clause shall be substituted, namely:—

"(i) if the offence is under sub-clause (i) of clause (a) and is with respect to an article of food which is adulterated within the meaning of sub-clause (l) of clause (i) of section 2 or misbranded within the meaning of sub-clause (k) of clause (ix) of that section; or";

(iv) after the proviso, the following proviso shall be inserted, namely:—

'Provided further that if the offence under this sub-section is with respect to an article of food, being processed food, the provisions of this sub-section shall have effect as if for the words "six months", wherever they occur, the words "one year" had been substituted.'

(b) sub-section (1A) shall be re-numbered as sub-section (1AA) and before that sub-section as so re-numbered, the following sub-section shall be inserted, namely:—

"(1A) If any person, whether by himself or by any other person on his behalf, imports into India or manufactures for sale or stores, sells or distributes, any article of food which is

45 of 1980.

adulterated within the meaning of any of the sub-clauses (e) to (k) (both inclusive) of clause (i) of section 2 and which, when consumed by any person, is likely to cause his death or is likely to cause such harm on his body as would amount to grievous hurt within the meaning of section 320 of the Indian Penal Code, he shall, in addition to the penalty to which he may be liable under the provisions of section 6, be punishable with imprisonment for a term which shall not be less than three years but which may extend to term of life and with fine which shall not be less than five thousand rupees.”;

(c) for sub-section (1B), the following sub-section shall be substituted, namely:—

45 of 1874

“(1B) If any person in whose safe custody any article of food has been kept under sub-section (4) of section 10, sells or distributes such article which is found by the magistrate before whom it is produced to be adulterated within the meaning of sub-clause (h) of clause (i) of section 2 and which, when consumed by any person, is likely to cause his death or is likely to cause such harm on his body as would amount to grievous hurt within the meaning of section 320 of the Indian Penal Code, then, notwithstanding anything contained in sub-section (1AA), he shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to term of life and with fine which shall not be less than five thousand rupees.”.

13. In section 18 of the principal Act, the following proviso shall be inserted at the end, namely:—

Amend-
ment of
section
18.

“Provided that where the court is satisfied that the article of food is capable of being made to conform to prescribed standards for human consumption after reprocessing, the court may order the article of food to be returned to the owner, on his executing a bond with or without sureties, for being sold, subject to the other provisions of this Act, after reprocessing under the supervision of such officer as may be specified therein.”.

14. In section 20 of the principal Act,—

(a) in sub-section (1), the words “or a local authority”, at both the places where they occur, shall be omitted;

Amend-
ment of
section
20.

(b) for sub-section (2), the following sub-sections shall be substituted, namely:—

“(2) No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence under this Act.

2 of 1874.

(3) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, an offence punishable under sub-section (1AA) of section 16 or under sub-section (1C) of that section shall be cognizable and non-bailable.”

8 of 1898.

2 of 1974.

15. In section 20A of the principal Act, for the words, brackets and figures “sub-section (1) of section 351 of the Code of Criminal Procedure, 1898”, the words, brackets and figures “sub-section (3) of section 319 of the Code of Criminal Procedure, 1973” shall be substituted

Amend-
ment of
section
20A

Insertion
of new
section
20AA.

16. After section 20A of the principal Act, the following section shall be inserted, namely:—

Applica-
tion of
the Pro-
bation of
Offenders
Act, 1958
and sec-
tion 360,
of the
Code of
Criminal
Procedure,
1973.

“20AA. Nothing contained in the Probation of Offenders Act, 1958 or section 360 of the Code of Criminal Procedure, 1973 shall apply to a person convicted of an offence under this Act unless that person is under eighteen years of age.”

20 of 1958.
2 of 1974.

Substitu-
tion of
new sec-
tion for
section
21.

17. For section 21 of the principal Act, the following section shall be substituted, namely:—

Magis-
trate's
power to
impose
enhanced
penalties.

“21. Notwithstanding anything contained in section 29 of the Code of Criminal Procedure, 1973, it shall be lawful for any Metropolitan Magistrate or any Judicial Magistrate of the first class to pass any sentence authorised by this Act, except a sentence of imprisonment for life or for a term exceeding six years, in excess of his powers under the said section.”

2 of 1974.

Insertion
of new
section
22A.

18. After section 22 of the principal Act, the following section shall be inserted, namely:—

Power to
exempt

“22A. If the Central Government is of the opinion that, having regard to the nature of any article of food and the course of dealings therein and any other relevant circumstances, it is necessary or expedient so to do in the public interest, it may, by notification in the Official Gazette and subject to such conditions, if any, as it may specify in the notification, exempt any manufacturer or distributor of, or dealer in, such article of food or any class of such manufacturers, distributors or dealers from the operation of the provisions of section 14 in relation to such article of food.”

Amend-
ment of
section
23.

19. In section 23 of the principal Act,—

(a) sub-section (1) shall be re-numbered as sub-section (1A) and—

(i) before sub-section (1A) as so re-numbered, the following sub-section shall be inserted, namely:—

“(1) The Central Government may, after consultation with the Committee and after previous publication by notification in the Official Gazette, make rules to carry out the provisions of this Act:

Provided that consultation with the Committee may be dispensed with if the Central Government is of the opinion that circumstances have arisen which render it necessary to make rules without such consultation, but, in such a case, the

Committee shall be consulted within six months of the making of the rules and the Central Government shall take into consideration any suggestions which the Committee may make in relation to the amendment of the said rules.”;

(ii) in sub-section (1A) as so re-numbered,—

(A) for the words “The Central Government may, after consultation with the Committee and subject to the condition of previous publication, make rules—”, the words “In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—” shall be substituted;

(B) in clause (d), the words “or to preventing adulteration” shall be inserted at the end;

(C) after clause (h), the following clause shall be inserted, namely:—

“(hh) defining the methods of analysis;”;

(D) in clause (k), after the words “from this Act”, the brackets, words and figures “(other than section 14)” shall be inserted;

(b) in sub-section (2), for the words “which may be comprised in one session or in two successive sessions and if, before the expiry of the session in which it is so laid or the session immediately following”, the words “which may be comprised in one session or in two or more successive sessions and if before the expiry of the session immediately following the session or the successive sessions aforesaid” shall be substituted.

20. In section 24 of the principal Act, in sub-section (2), in clause (b), for the words “may be cancelled or forfeited”, the words “may be suspended, cancelled or forfeited” shall be substituted.

Amendment of section 24.

STATEMENT OF OBJECTS AND REASONS

Adulteration of food articles is rampant in the country and has become a grave menace to the health and well-being of the community. It makes a heavy dent in the already low nutritional standards, and the benefits of many public health programmes on which large sums of money are spent, are insidiously undermined. A major offensive against this evil is overdue. Keeping in view the gravity of the problem, and the growing danger which it poses to the health of the nation, it has become necessary to amend the Prevention of Food Adulteration Act, 1954, so as to plug loopholes and provide for more stringent and effective measures with a view to curb this menace.

NEW DELHI;

KARAN SINGH.

The 23rd July, 1974.

FINANCIAL MEMORANDUM

Clause 3 of the Bill seeks to amend section 3 of the Prevention of Food Adulteration Act, 1954 so as to include one more member in the Central Committee for Food Standards to represent the agricultural, commercial and industrial interests. That clause also provides for the nomination of two more members to the Central Committee for Food Standards to represent the consumers' interests. The addition of these members to the Central Committee for Food Standards will involve a recurring expenditure of about Rs. 4,500 per annum towards the payment of travelling allowances to them for attending the meetings of the said Committee.

2. Clause 4 of the Bill which seeks to insert a new section 3A in the principal Act empowers the Central Government to appoint a Secretary to the Central Committee for Food Standards and to provide the said Committee with such clerical and other staff as that Government considers necessary. An approximate annual recurring expenditure of Rs. 50,000 is likely to be incurred on the additional post of Secretary and other staff.

3. Clause 5 of the Bill enables the Central Government to establish one or more Central Food Laboratory or Laboratories. The establishment of one Central Food Laboratory is likely to involve an expenditure of about Rs. 23.00 lakhs (including non-recurring expenditure of Rs. 12 lakhs for the land and building and Rs. 5 lakhs for equipment).

4. The Bill will not involve any other recurring or non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 5 of the Bill seeks to amend sub-section (2) of section 4 of the principal Act which empowers the Central Government to make rules to provide for the functions of a Central Food Laboratory and for such other matters as may be necessary to carry out its functions. The proposed amendment to clause (a) of sub-section (2) of section 4 will enable the Central Government to make rules to specify the local area or areas within which a Central Food Laboratory may carry out its functions

2. Clause 19 of the Bill seeks to amend section 23 of the principal Act which empowers the Central Government to make rules. Clause 20 of the Bill seeks to amend section 24 of the principal Act which empowers the State Government to make rules. The proposed amendment to clause (d) of sub-section (1) of section 23 will enable the Central Government to make rules restricting the packing and labelling of any article of food and the design of any such packet and label with a view to preventing adulteration. The new clause (hh) proposed to be inserted in sub-section (1) of section 23 empowers the Central Government to make rules for the purpose of defining the methods of analysis. The amendment proposed to clause (b) of sub-section (2) of section 24 empowers the State Government to provide in the rules the circumstances under which licences may be suspended.

3. The aforesaid matters with respect to which rules may be made, are matters of procedure and detail. The delegation of legislative power is, therefore, of a normal character.

B. N. BANERJEE,
Secretary-General.